IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4819 of 2000

WITH

SPECIAL CIVIL APPLICATION No. 4821 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RJK AUTOMATICS - Petitioner(s)

Versus

SHIV BAHADUR YADAV C/O MIGHTY LABOUR ASSO - Respondent(s)

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Appearance :

MR THAKKAR for MR KM PATEL for Petitioner No(s).: 1.

MR AJ YAGNIK for GIRISH PATEL ASSOC for Respondent No(s).: 1.

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 18/08/2005

ORAL JUDGMENT

1.0 The petitioner has prayed to quash and set aside the awards dated 05.04.2000 and 04.04.2000 passed by the

Labour Court, Ahmedabad, in Approval Applications No. 8 of 1989 and 7 of 1989, whereby the said applications were dismissed.

2.0 The brief facts of the case are that the respondents herein were employed as Helpers by the petitioner Company. The respondents were issued with chargesheet-cum-suspension orders on the ground of gross and serious misconduct. After holding inquiry, the services of the respondents came to be terminated on 01.09.1989.

2.1 It is the case of the petitioner that when the action of termination of the services of the respondents was taken, reference being Reference (LCA) No. 229 of 1986 was pending before the Labour Court, Ahmedabad. The petitioner, therefore, made Applications for approval of its action of terminating the services of the respondents. The respondents, on the other hand, filed a complaint being Complaint No. 31 of 1989 alleging breach of the provisions of Section 33 of the Industrial Disputes Act, 1947. The said complaint came to be dismissed vide order dated 11.01.1996.

2.2 Thereafter, the Labour Court by impugned award

dismissed the said Approval Applications. Hence, this petition.

3.0 Mr. Thakkar learned advocate appearing for Mr. KM Patel for the petitioner has contended that though specific contention was raised before the Labour Court that one month's Notice Pay was being sent to the workman by money order, the Labour Court has committed an error in holding that the said payment has not been made. He has submitted that since on the basis of the pleadings, the issue regarding Notice Pay did not arise, the petitioner did not produce Receipts of the money order, annexed at Annexure-G to the petitions, which was sent to the respondents along with the orders of termination.

4.0 Mr. A J Yagnik learned advocate for the respondents has contended that the amount received by the respondents herein was not with respect to the one month's Notice Pay as contended by the learned advocate for the petitioner, but, the same was paid against some other payment which was due to the respondents. He has, therefore, submitted that the Labour Court was completely justified in rejecting the Approval Applications of the petitioner.

5.0 I have heard learned counsel for the parties and perused the documents placed on record. In view of the peculiar facts and circumstances of the case and considering the fact that the postal Receipts of the money order, annexed at Annexure-G to the petitions, were not produced before the Labour Court while deciding the Approval Applications, it would be appropriate to remand the matter to the Labour Court for adjudication afresh.

6.0 In above view of the matter, the impugned awards dated 05.04.2000 and 04.04.2000 passed by the Labour Court, Ahmedabad, in Approval Applications No. 8 of 1989 and 7 of 1989, are quashed and set aside. The matters are remanded to the Labour Court, Ahmedabad, for adjudication afresh and the Labour Court is directed to re-consider the whole issue after permitting the petitioner herein to place on record the said postal Receipts of the money order, annexed at Annexure-G to the petitions. It shall be open to both the sides to lead appropriate evidence before the Labour Court. However, it is made clear that this Court has not considered the matters on merits and the Labour Court, while deciding the matters afresh, shall not be influenced by the fact that this Court has quashed its earlier awards. This Court has remanded the

matter for decision afresh only on the ground that the documents annexed at Annexure-G to the petitions were not produced before it while disposing of the said approval applications. With the above observations, the petitions stand disposed of. Rule is made absolute to the aforesaid extent with no order as to costs.

(K. S. JHAVERI, J.)

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